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Filing date: **09/02/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91185420
Party	Defendant Smith & Nephew Orthopaedics AG
Correspondence Address	WILLIAM B. CLEMMONS, JR. SMITH & NEPHEW, INC. 1450 E BROOKS RD MEMPHIS, TN 38116-1804 UNITED STATES
Submission	Answer
Filer's Name	Charlene R. Marino
Filer's e-mail	tmadmin@kilpatrickstockton.com
Signature	/Charlene R. Marino/
Date	09/02/2008
Attachments	POLARCUP ANSWER.pdf ( 4 pages )(108977 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BREG, INC.,	)	
	)	
Opposer,	)	Opposition No. 91185420
	)	
v.	)	Mark: POLARCUP
	)	Serial No.: 77/391011
SMITH & NEPHEW	)	
ORTHOPAEDICS AG,	)	
	)	
Applicant.	)	

**ANSWER TO NOTICE OF OPPOSITION**

COMES NOW Applicant Smith & Nephew Orthopaedics (“Applicant”) and for its  
Answer to the Notice of Opposition of Breg, Inc. (“Opposer”) states as follows:

**AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

Opposer’s Notice of Opposition fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Opposer’s claims are barred in whole or in part on the ground that Opposer does not own exclusive rights to marks including the designation “Polar” since a number of third parties own valid federal registrations of marks or use marks including the designation “Polar” for goods falling in International Class 10.

**ANSWER TO NOTICE OF OPPOSITION**

With respect to the numbered paragraphs of the Notice of Opposition, Applicant answers as follows:

1.

Applicant admits the allegations of Paragraph 1 of the Notice of Opposition.

2.

Applicant admits the allegations of Paragraph 2 of the Notice of Opposition.

3.

Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 3 of the Notice of Opposition and accordingly denies such allegations.

4.

Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 4 of the Notice of Opposition and accordingly denies such allegations.

5.

Applicant acknowledges that Opposer is making the claims set forth in Paragraph 5, but denies that the claim has any legal relevance. Applicant denies all remaining allegations of Paragraph 5 of the Notice of Opposition.

6.

Applicant denies the allegations of Paragraph 6 of the Notice of Opposition.

7.

Applicant denies the allegations of Paragraph 7 of the Notice of Opposition.

8.

Applicant denies the allegations of Paragraph 8 of the Notice of Opposition.

9.

Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10.

Applicant denies the allegations of Paragraph 10 of the Notice of Opposition.

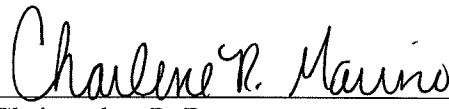
11.

Applicant denies the allegations of Paragraph 11 of the Notice of Opposition.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed and that registration of Applicant's "POLARCUP" trademark be granted.

Dated: September 2, 2008

Respectfully submitted,



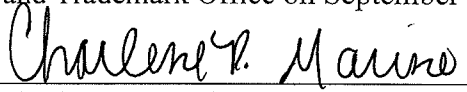
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Attorneys for Applicant  
Smith & Nephew Orthopaedics AG

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence ANSWER TO NOTICE OF OPPOSITION is being transmitted to the United States Patent and Trademark Office on September 2, 2008.

By:   
Charlene R. Marino

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

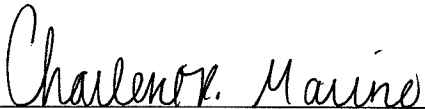
BREG, INC.,	)	
	)	
Opposer,	)	Opposition No. 91185420
	)	
v.	)	Mark: POLAR CUP
	)	Serial No.: 77/391011
SMITH & NEPHEW	)	
ORTHOPAEDICS AG,	)	
	)	
Applicant.	)	

**CERTIFICATE OF SERVICE**

This certifies that I have served the attached ANSWER TO NOTICE OF OPPOSITION  
on Opposer via first class mail addressed to:

Rodney F. Brown  
3365 Baltimore Street  
San Diego, CA 92117

This 2<sup>nd</sup> day of September, 2008.

  
\_\_\_\_\_  
Charlene R. Marino